

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ANTHONY GRECO, *et al.*,

Plaintiffs,

v.

NYE COUNTY DISTRICT JUDGE
ROBERT LAKE, *et al.*

Defendants.

Case No. 2:15-cv-001370-MMD-PAL

ORDER ACCEPTING REPORT AND
RECOMMENDATION OF MAGISTRATE
JUDGE PEGGY A. LEEN

Before the Court is the Amended Report and Recommendation of United States Magistrate Judge Peggy A. Leen (ECF No. 38) (“R&R” or “Recommendation”) relating to Plaintiff Anthony Greco’s third application to proceed *in forma pauperis* (“IFP Application”) (ECF No. 37). (ECF No. 38.) Plaintiff filed the third IFP Application after the Magistrate Judge issued the initial Report and Recommendation (ECF No. 36) addressing his second IFP Application. (ECF No. 37.) Plaintiff had until November 26, 2016, to object to the R&R. (ECF No. 38.) To date, no objection to the R&R has been filed.

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails

1 to object, however, the court is not required to conduct “any review at all . . . of any issue
2 that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
3 Indeed, the Ninth Circuit has recognized that a district court is not required to review a
4 magistrate judge’s report and recommendation where no objections have been filed. See
5 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard
6 of review employed by the district court when reviewing a report and recommendation to
7 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
8 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s decision in *Reyna-Tapia* as adopting the
9 view that district courts are not required to review “any issue that is not the subject of an
10 objection.”). Thus, if there is no objection to a magistrate judge’s recommendation, then
11 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
12 Supp. 2d at 1226 (accepting, without review, a magistrate judge’s recommendation to
13 which no objection was filed).

14 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
15 determine whether to adopt Magistrate Judge Leen’s R&R. Upon reviewing the R&R and
16 the filings in this case, this Court finds good cause to adopt the Magistrate Judge’s
17 Recommendation in full.

18 It is therefore ordered, adjudged and decreed that the Report and
19 Recommendation of Magistrate Judge Peggy A. Leen (ECF No. 38) is accepted and
20 adopted in its entirety.


21 It is further ordered that Plaintiff Applications to Proceed *In Forma Pauperis* (ECF
22 Nos. 24, 37) are denied and this action is dismissed without prejudice to Plaintiff’s ability
23 to commence a new action in which he either pays the appropriate filing fee in full or
24 submits a sufficient application to proceed *in forma pauperis*.

25 It is further ordered that the Magistrate Judge’s initial Report and
26 Recommendation (ECF No. 36) is overruled as moot by the Magistrate Judge’s issuance
27 of the R&R.

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1 The Clerk of Court is instructed to enter judgment accordingly and close this case.

2 DATED THIS 30th day of December 2016.

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6 MIRANDA M. DU
7 UNITED STATES DISTRICT JUDGE
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